

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 7-16-48 *and*

In the Matter of

MARK S. HIRSCH, D.D.S.
License No. DI 12007

Licensed to Practice Dentistry)
in the State of New Jersey)

Administrative Action

ORDER OF REINSTATEMENT

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the application of Mark S. Hirsch, D.D.S., ("respondent") seeking to reinstate his license to practice dentistry. Respondent's license was suspended by the Board for a period of five years commencing July 1, 1992. The suspension was predicated upon respondent's misconduct in writing fraudulent prescriptions for himself and a friend under fictitious names for various drugs including Percodan and Percocet. The five year suspension followed a prior suspension for similar misconduct. Pursuant to the 1992 order, respondent was able to apply for reinstatement not sooner than July 1997 and was obligated to demonstrate to the Board that he was personally fit and competent to practice dentistry. The order required that, at a minimum, he participate in the Impaired Dentists Program, submit to urine monitoring, submit an evaluation by Frederick Rotgers, Psy.D., of the Impaired Dentists Program detailing his current condition and recommendations for respondent's reentry to practice, and that,

upon resumption of practice, he would be under the direct supervision of a licensed dentist approved by the Board.

Respondent sought to reapply for licensure in November 1996. At that time the Board declined to consider respondent's early application for reinstatement. On June 30, 1997, respondent applied again for reinstatement. In lieu of the evaluation by Dr. Rotgers, the Board accepted a report from Frank J. Dyer, Ph.D.

Following review of the documents provided in connection with respondent's application for reinstatement, including the report from Dr. Dyer which states that respondent's resumption of practice subject to certain conditions would not pose a threat to the public, a letter from Shelly L. Ludwig, M.D., concerning respondent's current physical condition, and a letter from Dr. Rotgers indicating that respondent has complied with urine monitoring requirements and that all specimens have been negative for the presence of any psychoactive substances of abuse, the Board has determined that respondent may have his license reinstated subject to the conditions outlined in this order. The Board finds that the restrictions placed on respondent's practice by this order are adequate to protect the health and welfare of the public, and that good cause exists for entry of this order:

IT IS ON THIS ^{on} ~~16~~ ^{July} DAY OF MARCH, 1998

ORDERED:

1. Respondent shall not practice as a sole practitioner and agrees to practice dentistry in affiliation with a dentist licensed by this Board, who shall be in a position to monitor respondent's practice of dentistry. Respondent shall

submit the name of the supervising dentist to the Board for approval prior to engaging in practice. Respondent shall provide to the supervising dentist a copy of this Order and any further orders of the Board related to respondent. Respondent shall be responsible for ensuring that the supervising dentist prepares and submits quarterly reports detailing respondent's practice of dentistry and specifically addressing any conduct suggestive of recurrence of drug abuse. Respondent agrees that the supervising dentist shall immediately report any relapses or suspected relapses by respondent to the Board of Dentistry within twenty-four (24) hours thereof. Respondent shall immediately report and obtain Board approval before any change in affiliation with his supervising dentist.

2. Prior to the resumption of practice, in order to determine his current level of proficiency, respondent shall take and pass the restorative portion of the clinical proficiency examination which shall be taken through the New Jersey Dental School. The results of that examination are to be forwarded to the Agnes Clarke, Executive Director, State Board of Dentistry, P.O. Box 45005, Newark, New Jersey 07101.

3. Respondent shall not prescribe or have access to controlled dangerous substances until further order of the Board.

4(a.) Respondent shall have his urine monitored twice weekly at a laboratory facility designated by the Board to continue until further order of the Board expressly reducing or discontinuing testing. Respondent shall be provided with specific directions for the protocol of the testing procedure and the

location of the laboratory facility by the Executive Director of the Board. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge.

(b.) All test results shall be provided to Agnes Clarke, Executive Director or the Board, or her designee in the event she is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c.) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Agnes Clarke, or her designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the Board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that he was unable to provide

the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d.) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

5. Respondent shall continue in counseling, at his own expense, with a Board approved mental health practitioner at least one time per week. Respondent shall be responsible for ensuring that the above designated practitioner provides the Board with quarterly reports regarding his attendance and progress in counseling.


6. Respondent shall attend support groups, including NA or AA not less than three (3) times per week. Respondent shall provide evidence of attendance at such groups directly to the Board. If respondent has discontinued attendance at any of the support groups without obtaining approval of the Board, he shall be deemed in violation of this Order.

7. Respondent shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and

all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribed medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

8. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treating or other program as outlined herein, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. With regard to any requirement for submission of the quarterly reports to the Board, the beginning of the first quarter is deemed to have commenced April 1, 1998.

New Jersey Board of Dentistry

By: 
Valentine P. Bloch, D.D.S.
President